

SECOND REGULAR SESSION

HOUSE BILL NO. 1309

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES LIPKE (Sponsor), BROWN (30), SMITH (118), DIXON, SCHAD, MEADOWS, ROORDA, SMITH (150), PARSON, WOOD, YOUNG, DARROUGH, CORCORAN AND BIVINS (Co-sponsors).

Read 1st time January 10, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3592L.01I

AN ACT

To repeal sections 163.172, 166.131, 166.300, 513.600, 513.605, 513.607, 513.610, 513.612, 513.615, 513.617, 513.620, 513.623, 513.625, 513.630, 513.635, 513.637, 513.640, 513.645, 513.647, 513.649, 513.651, and 513.653, RSMo, and to enact in lieu thereof twenty-nine new sections relating to criminal forfeiture reform, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 163.172, 166.131, 166.300, 513.600, 513.605, 513.607, 513.610, 2 513.612, 513.615, 513.617, 513.620, 513.623, 513.625, 513.630, 513.635, 513.637, 513.640, 3 513.645, 513.647, 513.649, 513.651, and 513.653, RSMo, are repealed and twenty-nine new 4 sections enacted in lieu thereof, to be known as sections 163.172, 166.131, 166.300, 166.540, 5 546.2000, 546.2003, 546.2006, 546.2009, 546.2012, 546.2015, 546.2018, 546.2021, 546.2024, 6 546.2027, 546.2030, 546.2033, 546.2036, 546.2039, 546.2042, 546.2045, 546.2048, 546.2051, 7 546.2054, 546.2057, 546.2060, 546.2063, 546.2066, 546.2069, and 546.2072, to read as follows:

163.172. 1. [In school year 1994-95 and thereafter,] The minimum teacher's salary shall 2 be [eighteen] **twenty-five** thousand dollars. [Beginning in the school year 1996-97,] For any 3 full-time teacher with a master's degree and at least ten years teaching experience in a public 4 school or combination of public schools, the minimum salary shall be [twenty-four] **thirty** 5 thousand dollars.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

6 2. Beginning with the budget requests for fiscal year 1991, the commissioner of
7 education shall present to the appropriate committees of the general assembly information on the
8 average Missouri teacher's salary, regional average salary data, and national average salary data.

9 3. All school salary information shall be public information.

10 4. As used in this section, the term "salary" shall be defined as the salary figure which
11 appears on the teacher's contract and as determined by the local school district's basic salary
12 schedule and does not include supplements for extra duties.

13 5. The minimum salary for any fully certificated teacher employed on a less than
14 full-time basis by a school district, state school for the severely handicapped, the Missouri
15 School for the Deaf, or the Missouri School for the Blind shall be prorated to reflect the amounts
16 provided in subsections 1 and 2 of this section.

17 6. Beginning with the [1996-97] **2006-07** school year, the general assembly shall make
18 an annual appropriation to the [excellence in education] **school improvement revolving** fund
19 established in section [160.268] **166.540**, RSMo, for the purpose of fulfilling the minimum
20 salary requirements for public school teachers in those districts [meeting the qualifications
21 established in subsection 7] **in the 2005-06 school year who are not paying the salaries set**
22 **forth in subsection 1** of this section. **Before subsection 1 of this section is effective**, the
23 appropriation **to the school improvement revolving fund** shall be sufficient to ensure that all
24 qualifying districts are able to comply with the minimum salary requirements of this section.
25 The department of elementary and secondary education shall determine, prior to each school
26 year, those districts which shall be eligible to receive funds in this subsection during the school
27 year. [A qualifying district shall be eligible to receive funds appropriated in this subsection only
28 during the first three years following the district's qualifying for such funds.

29 7. To qualify to begin receiving funds in subsection 6 of this section, a school district
30 shall meet all of the following criteria:

31 (1) A portion of the real property of the district shall have been removed from the tax
32 rolls due to the impact of state or federal government action;

33 (2) The district shall have received no more state aid on a per pupil basis for each of the
34 last three school years, exclusive of categorical funding, than the district received for the 1992-93
35 school year;

36 (3) The salaries paid to all teachers in the district for the school year prior to qualification
37 shall be totally compacted at the eighteen thousand dollar per year minimum established in this
38 section;

39 (4) The district shall have in its employ for the school year prior to qualification one or
40 more teachers with a master's degree and at least ten years' teaching experience in a public school
41 or a combination of public schools;

42 (5) The district shall be financially distressed or have a history of deficit spending which,
43 if continued, will cause the district to become financially distressed within three years;

44 (6) The district had an enrollment of no greater than four hundred pupils for the
45 preceding school year; and

46 (7) The district shall have levied an operating levy for school purposes of not less than
47 two dollars seventy-five cents per one hundred dollars of assessed valuation for the previous year
48 and shall continue to levy at no less than that rate.

49 8.] 7. For any school year in which a school district receives funds pursuant to
50 [subsections 6 and 7] **subsection 6** of this section, such school district shall continue to expend
51 on teacher salaries no less than the amount it expended on teacher salaries in the school year
52 immediately prior to the school year in which it first receives such funds.

53 [9.] 8. No school district receiving funds pursuant to [subsections 6 and 7] **subsection**
54 **6** of this section shall receive additional funds pursuant to subsection 6 of this section by virtue
55 of the annexation of another school district to such school district during or after the school year
56 immediately prior to the school year in which the annexing district first receives such funds; nor
57 shall any school district annexed to a school district receiving funds pursuant to [subsections 6
58 and 7] **subsection 6** of this section also receive funds pursuant to subsection 6 of this section by
59 virtue of such annexation if such annexation occurred during or after the school year immediately
60 prior to the school year in which the annexing school district first receives such funds.

166.131. The county commission in each county shall administer the county school fund
2 of the county. In each county wherein the annual distribution of the liquidated capital of the
3 county school fund has not been ordered by the voters pursuant to sections 166.151 to 166.161,
4 the proceeds of the fund shall be invested by the county commission in registered bonds of the
5 United States, or in bonds of the state or in approved bonds of any city or school district thereof,
6 or in bonds or other securities the payment of which is fully guaranteed by the United States
7 government and shall be preserved as a county school fund. Annually, on or before September
8 thirtieth, in each county of the state all interest accruing from the investment of the capital of the
9 county school fund, if any, the clear proceeds of all penalties and fines collected for any breach
10 of the penal laws of the state, the net proceeds from the sale of estrays, and all other money
11 lawfully coming into the fund, shall be collected and distributed to the school districts of the
12 county by the county clerk in the same proportion that the September membership of a school
13 district, determined as provided in (1) of subdivision (8) of section 163.011, RSMo, bears to the
14 sum of the September membership of all the districts in the county. He shall immediately after
15 making the apportionments enter them in a book to be kept for that purpose, and shall furnish
16 each district clerk a copy of the apportionment. The county treasurer shall pay over to the
17 treasurer of the school board of every district in the county the amount due each respective

18 district. The clear proceeds of all forfeitures collected for any breach of the penal laws of the
19 state distributed for education shall be transferred to the school [building] **improvement**
20 revolving fund.

166.300. 1. As used in this section, the following words and phrases shall mean:

2 (1) "Capital improvement projects", expenditures for lands or existing buildings,
3 improvements of grounds, construction of buildings, additions to buildings, remodeling of
4 buildings and initial equipment purchases;

5 (2) "School facility", a structure dedicated primarily to housing teachers and students in
6 the instructional process, but shall not include buildings dedicated primarily to administrative
7 and support functions within the school.

8 2. There is hereby created a revolving fund to be known as the "School Building
9 Revolving Fund". All [forfeitures of assets transferred pursuant to section 166.131, all] gifts and
10 bequests to such fund, and such moneys as may be appropriated to the fund shall be deposited
11 into the school building revolving fund; except that no more than four hundred forty million
12 dollars, in the aggregate, shall be transferred to the fund. After a fund balance has been
13 established by prior years' deposits and interest, school districts may submit applications for lease
14 purchases from the revolving fund for specific projects consistent with rules and regulations of
15 the state board of education and subsection 3 of this section, except that no school district may
16 be permitted to enter into a lease purchase from the school building revolving fund without first
17 submitting a long-range capital improvements plan.

18 3. To be eligible for a lease purchase authorized by this section:

19 (1) A school district shall meet the minimum criteria for state aid and for increases in
20 state aid established pursuant to section 163.021, RSMo;

21 (2) A school district shall provide a program which is accredited by the state board of
22 education for grades kindergarten through twelve or for grades kindergarten through eight; and

23 (3) A school district shall have an equalized, assessed valuation per eligible pupil for the
24 preceding year which is less than the statewide average equalized, assessed valuation per eligible
25 pupil for the preceding year; and

26 (4) A school district shall have a bonded indebtedness which is no less than ninety
27 percent of the constitutional limitation on indebtedness pursuant to section 26(b) of article VI
28 of the Constitution of Missouri.

29 4. Lease purchase applications shall be funded, as funds allow, first for all applications
30 pursuant to subdivision (1) of this subsection and then for applications pursuant to subdivision
31 (2) of this subsection and then for applications pursuant to subdivision (3) of this subsection, and
32 for funding of applications pursuant to a particular subdivision, applications shall be funded in
33 the order that the applications are received by the department. If two or more applications are
34 received on the same day, the district with the lowest appraised valuation per pupil shall be given

35 priority. Ranking of the applications for offering of lease purchases shall be done in the
36 following order:

37 (1) Districts with capital replacement costs in excess of insurance proceeds due to facility
38 destruction caused by fire or natural disaster shall be ranked on the basis of percentage of
39 bonding capacity;

40 (2) Districts with a cumulative percentage growth in fall membership for the third
41 through the fifth preceding years in excess of twelve percent and which have a bonded
42 indebtedness which is no less than ninety percent of the constitutional limitation on indebtedness
43 pursuant to section 26(b) of article VI of the Constitution of Missouri; and

44 (3) Districts with an equalized assessed valuation per pupil which is less than the
45 statewide average equalized assessed valuation per pupil and which have a bonded indebtedness
46 which is no less than ninety percent of the constitutional limitation on indebtedness pursuant to
47 section 26(b) of article VI of the Constitution of Missouri.

48 5. When building replacement is caused by fire or natural disaster, the requirement for
49 a school district to have a long-range capital improvements plan may be waived by the state
50 board of education.

51 6. Each school district participating in a lease purchase from the school building
52 revolving fund shall repay such lease purchase in no more than ten annual payments made on or
53 before June thirtieth of each year. The first such payment shall be due and payable on June
54 thirtieth of the first full fiscal year following receipt of lease purchase proceeds. Lease purchase
55 repayments shall be immediately deposited to the school building revolving fund by the
56 department. Interest charged to the school district shall not exceed three percent.

57 7. Any school district which fails to obligate the full amount of a loan from the school
58 building revolving fund for the allowable lease purchase must return the unobligated amount plus
59 interest earned to the department no later than June thirtieth of the second full fiscal year after
60 receipt of loan proceeds.

61 8. If a school district fails to make an annual payment to the school building revolving
62 fund after notice of nonpayment by the department, members of the board of education and the
63 school district's superintendent shall have violated section 162.091, RSMo, and the attorney
64 general of the state of Missouri shall be notified by the state board of education to begin
65 prosecution procedures.

66 9. All property purchased pursuant to a lease purchase from the school building
67 revolving fund shall remain the property of the state until such time as the lease purchase has
68 been fully repaid pursuant to this section. If a school district does not make an annual payment
69 to the school building revolving fund after notice of nonpayment by the department, the state
70 board of education may, if the delinquency exceeds one hundred eighty days, take possession of
71 the property. As a part of the lease purchase agreement, the school district shall agree to assume

72 all costs, obligations and liabilities for or arising out of establishment, operation and maintenance
73 of the lease purchase property. Other provisions of law to the contrary notwithstanding, neither
74 the state nor any state agency shall have any obligation for such costs, obligations or liabilities
75 unless and until the state board of education takes possession of the property pursuant to this
76 subsection upon a school district's failure to make annual payments as required in the lease
77 purchase agreement.

78 10. Any unobligated cash balance in the school building revolving fund as of the
79 effective date of this act, shall be transferred to aid the public schools of this state pursuant to
80 section 163.031, RSMo. Any and all deposits made to the school building revolving fund after
81 August 28, 2003, shall be immediately transferred to the state school moneys fund, pursuant to
82 section 166.051.

166.540. There is hereby created a revolving school fund to be known as the
2 **"School Improvement Revolving Fund". All forfeitures of assets transferred under section**
3 **166.131, all gifts and bequests to such fund, and such moneys as may be appropriated to**
4 **the fund shall be deposited into the school improvement revolving fund. After a fund**
5 **balance of up to six million dollars has been established by deposits and interest, such**
6 **proceeds shall be distributed to school districts not paying minimum teachers' salaries**
7 **under section 163.172, RSMo. All proceeds not distributed in proceeding years under**
8 **section 163.172, RSMo, and all proceeds in excess of the distribution under section 163.172,**
9 **RSMo, of up to six million dollars shall be used for safe schools projects. School districts**
10 **may submit applications to the school improvement revolving fund for minimum teachers'**
11 **salaries supplements and for specific safe schools projects consistent with rules and**
12 **regulations of the state board of education.**

546.2000. As used in sections 546.2000 to 546.2072, the following terms shall mean:

2 (1) "Attorney for the state", any prosecuting or circuit attorney authorized to
3 investigate, commence and prosecute an action under sections 546.2000 to 546.2072;

4 (2) "Conveyance", includes any vehicle, trailer, vessel, aircraft or other means of
5 transportation;

6 (3) "Interest holder", a secured party within the meaning of the Uniform
7 Commercial Code, a mortgagee, lien creditor, or the beneficiary of a security interest or
8 encumbrance pertaining to an interest in property, whose interest would be perfected
9 against a good faith purchaser for value. A person who holds property for the benefit of
10 or as an agent or nominee for another person, or who is not in substantial compliance with
11 any statute requiring an interest in property to be recorded or reflected in public records
12 in order to perfect the interest against a good faith purchaser for value, is not an interest
13 holder;

14 (4) "Omission", the failure to perform an act that is required by law;

15 (5) "Owner", a person, other than an interest holder, who has an interest in
16 property. A person who holds property for the benefit of or as an agent or nominee for
17 another person, or who is not in substantial compliance with any statute requiring an
18 interest in property to be recorded or reflected in public records in order to perfect the
19 interest against a good faith purchaser for value, is not an owner;

20 (6) "Proceeds", property acquired directly or indirectly from, produced through,
21 realized through, or caused by an act or omission and includes any property of any kind
22 without reduction for expenses incurred for acquisition, maintenance, production, or any
23 other purpose;

24 (7) "Property", anything of value, which includes any interest in property,
25 including any benefit, privilege, claim, or right with respect to anything of value, whether
26 real or personal, tangible or intangible;

27 (8) "Regulated interest holder", an interest holder that is a business authorized to
28 do business in this state and is under the jurisdiction of an appropriate state or federal
29 regulatory agency or agencies relating to banking, securities, insurance and real estate;

30 (9) "Seizing agency", any department or agency of this state or its political
31 subdivisions that regularly employs law enforcement officers, and that employs the law
32 enforcement officer who seizes property for forfeiture, or such other agency as the agency
33 or department may designate by its chief executive officer or their designee;

34 (10) "Seizure for forfeiture", seizure of property by a law enforcement officer,
35 including a constructive seizure, accompanied by an assertion by the seizing agency or by
36 an attorney for the state that the property is seized for forfeiture, in accordance with
37 section 546.2015.

546.2003. 1. The judicial circuit court where actual or constructive seizure of the
2 property occurs has jurisdiction under sections 546.2000 to 546.2072 over:

3 (1) All interests in property if the property for which forfeiture is sought is within
4 this state at the time the action is filed; and

5 (2) The interest of an owner or interest holder in the property if the owner or
6 interest holder is subject to personal jurisdiction in this state.

7 **2.** In addition to the venue provided for under state law or any other provision of
8 law, a proceeding for forfeiture under sections 546.2000 to 546.2072 may be maintained in
9 the judicial circuit in which any part of the property is found or in the judicial circuit in
10 which a civil or criminal action could be maintained against an owner or interest holder
11 for the conduct alleged to give rise to the forfeiture. A claimant or defendant may obtain
12 a change of venue if there exists so great a prejudice against the party that they cannot
13 obtain a fair and impartial trial.

546.2006. The following conduct gives rise to forfeiture whether or not there is a prosecution or conviction related to the conduct:

(1) An act or omission occurring in this state punishable as a felony or misdemeanor;

(2) An act or omission occurring outside this state, that would be punishable as a felony or misdemeanor in the place of occurrence and would be described in subdivision (1) of this section if the act or omission occurred in this state; or

(3) An act or omission committed in furtherance of any act or omission described in subdivision (1) of this section and is punishable as a felony or misdemeanor including any inchoate or preparatory offense.

546.2009. The following property is subject to seizure and forfeiture:

(1) All controlled substances in section 195.017, RSMo, raw materials, controlled substance analogs, counterfeit substances, imitation controlled substances, that have been manufactured, distributed, dispensed, possessed, or acquired in violation of the laws of this state;

(2) (a) All property, except as provided in paragraph (b) of this subdivision, including the whole of any lot or tract of land and any appurtenances or improvements to real property that is either:

a. Furnished or intended to be furnished by any person in an exchange that constitutes conduct giving rise to forfeiture; or

b. Used or intended to be used in any manner or part to facilitate conduct giving rise to forfeiture;

(b) If the only conduct giving rise to forfeiture is possession of controlled substances solely for personal consumption:

a. Real property is not subject to forfeiture; and

b. Other property subject to forfeiture under subparagraph b. of paragraph (a) of subdivision (2) of this section may be forfeited only under section 546.2039;

(3) All proceeds of any conduct giving rise to forfeiture;

(4) All weapons possessed, used, or available for use in any manner to facilitate conduct giving rise to forfeiture;

(5) Any interest or security in, claim against, or property or contractual right of any kind affording a source of control over any enterprise that a person has established, operated, controlled, conducted, or participated in the conduct of through conduct giving rise to forfeiture; and

(6) Any property of a person up to the value of property either:

(a) Described in subdivision (2) of this section that the person owned or possessed for the purpose of a use described in subdivision (2) of this section; or

28 (b) Described in subdivision (3) of this section and is proceeds of conduct engaged
29 in by the person or for which the person is criminally responsible.

30

31 Property described in this subdivision may be seized for forfeiture under a constructive
32 seizure or an actual seizure under section 546.2015. Actual seizure may only be done under
33 a seizure warrant issued on showings, in addition to the showing of probable cause for the
34 forfeiture of the subject property, that the subject property is not available for seizure for
35 reasons described in subsection 1 of section 546.2042, and that the value of the property
36 to be seized is not greater than the total value of the subject property, or under a
37 constructive seizure. If property of a defendant up to the total value of all interests in the
38 subject property is not seized prior to final judgment in an action under this section, the
39 remaining balance shall be ordered forfeited as a personal judgment against the defendant.

40 (7) Any abandoned or unclaimed property that a law enforcement officer comes
41 into contact with during the performance of his official duties.

 546.2012. 1. All property, including all interests in property, described in section
2 546.2009 is subject to forfeiture, except that property is exempt from forfeiture:

3 (1) If the owner or interest holder acquired the property before or during the
4 conduct giving rise to its forfeiture, and:

5 (a) Did not know and could not reasonably have known of the act or omission or
6 that it was likely to occur; or

7 (b) Acted reasonably to prevent the conduct giving rise to forfeiture; or

8 (2) If the owner or interest holder acquired the property after the conduct giving
9 rise to its forfeiture, including acquisition of proceeds of conduct giving rise to forfeiture,
10 and acquired the property in good faith, for value and did not knowingly take part in an
11 illegal transaction.

12 2. Notwithstanding subsection 1 of this section, property is not exempt from
13 forfeiture, even though the owner or interest holder lacked knowledge or reason to know
14 that the conduct giving rise to its forfeiture had occurred or was likely to occur, if:

15 (1) The person whose conduct gave rise to its forfeiture had the authority to convey
16 the property of the person claiming the exemption to a good faith purchaser for value at
17 the time of the conduct;

18 (2) The owner or interest holder is criminally responsible for the conduct giving
19 rise to its forfeiture, whether or not there is a prosecution or conviction; or

20 (3) The owner or interest holder acquired the property with notice of its actual or
21 constructive seizure for forfeiture under section 546.2015, or with reason to believe that it
22 was subject to forfeiture under sections 546.2000 to 546.2072.

546.2015. 1. Property may be seized for forfeiture by law enforcement officers upon process issued by any associate or circuit judge. The court may issue a seizure warrant on an affidavit under oath demonstrating that probable cause exists for its forfeiture or that the property has been the subject of a previous final judgment of forfeiture in the courts of any state or of the United States. The court may order that the property be seized on such terms and conditions as are reasonable in the discretion of the court. The order may be made on or in connection with a search warrant.

2. Property may be seized for forfeiture by law enforcement officers without process on probable cause to believe that the property is subject to forfeiture under sections 546.2000 to 546.2072.

3. The seizure of inhabited residential real property for forfeiture which is accompanied by removing or excluding its residents shall be done under a pre-seizure adversarial judicial determination of probable cause, except that this determination may be done ex parte when the attorney for the state has demonstrated exigent circumstances.

4. Property may be seized constructively by:

(1) Posting notice of seizure for forfeiture or notice of pending forfeiture on the property;

(2) Giving notice under section 546.2021;

(3) Filing or recording in the public records relating to that type of property notice of seizure for forfeiture, notice of pending forfeiture, a forfeiture lien or a lis pendens. Filings or recordings made under this subsection are not subject to a filing fee or other charge.

5. The seizing agency, or the attorney for the state, shall make a reasonable effort to provide notice of the seizure to the person from whose possession or control the property was seized. If no person is in possession or control, the seizing agency may attach the notice to the property or to the place of its seizure or may make a reasonable effort to deliver it to the owner of the property. The notice shall contain a general description of the property seized, the date and place of seizure, the name of the seizing agency and the address and telephone number of the seizing officer or other person or agency from whom information about the seizure may be obtained.

6. A person who acts in good faith and in a reasonable manner to comply with an order of the court or a request of a law enforcement officer is not liable to any person for acts done in reasonable compliance with the order or request. In addition, no inference of guilt may be drawn from the fact that a person refuses a law enforcement officer's request to deliver the property.

7. A possessory lien of a person from whose possession property is seized is not affected by the seizure.

546.2018. 1. Property seized for forfeiture under sections 546.2000 to 546.2072 is not subject to alienation, conveyance, sequestration, attachment, or a motion or order under chapter 542, RSMo, relating to the return of property seized as evidence with or without a search warrant.

2. The seizing agency or the attorney for the state may authorize the release of the seizure for forfeiture on the property if forfeiture or retention of actual custody is unnecessary.

3. The attorney for the state may discontinue forfeiture proceedings and transfer the action to another state or federal agency or attorney for the state who has initiated forfeiture proceedings.

4. The property is deemed to be in the custody of the circuit court subject only to the orders and decrees of the court having jurisdiction over the forfeiture proceedings and to the acts of the seizing agency or the attorney for the state under sections 546.2000 to 546.2072.

5. An owner of property seized under sections 546.2000 to 546.2072 may obtain release of the property by posting with the attorney for the state a surety bond or cash in an amount equal to the full fair market value of the property as determined by the attorney for the state. The state may refuse to release the property if:

(1) The bond tendered is inadequate; or

(2) The property is retained as contraband or as evidence; or

(3) It is particularly altered or designed for use in conduct giving rise to forfeiture.

If a surety bond or cash is posted and the property is forfeited, the court shall forfeit the surety bond or cash in lieu of the property.

6. If property is seized under sections 546.2000 to 546.2072, the attorney for the state or his designee, subject to any need to retain the property as evidence, may:

(1) Remove the property to an appropriate place designated by the seizing agency head or his designee;

(2) Place the property under constructive seizure;

(3) Remove the property to a storage area for safekeeping or, if the property is a negotiable instrument or money, deposit it in an interest bearing account;

(4) Provide for another agency or custodian, including an owner, secured party, mortgagee, or lienholder, to take custody of the property and service, maintain and operate it as reasonably necessary to maintain its value, in any appropriate location within the jurisdiction of the court; or

(5) Require the seizing law enforcement agency to take custody of the property and remove it to an appropriate location for disposition in accordance with law.

38 7. As soon as practicable after seizure for forfeiture, the seizing agency shall
39 conduct a written inventory and estimate the value of the property seized.

40 8. The court may order property which has been seized for forfeiture sold, leased,
41 rented or operated to satisfy a specified interest of any interest holder, or to preserve the
42 interests of any party on motion of such party. The court may enter orders under this
43 subsection after notice to persons known to have an interest in the property, and an
44 opportunity for a hearing, if the interest holder:

45 (1) Has timely filed a proper claim and is a regulated interest holder; or

46 (2) Has an interest which the attorney for the state has stipulated is exempt from
47 forfeiture.

48 9. A sale may be ordered under subsection 8 of this section when the property is
49 liable to perish, to waste, or to be foreclosed or significantly reduced in value, or when the
50 expenses of maintaining the property are disproportionate to its value. A third party
51 designated by the court shall dispose of the property by commercially reasonable public
52 sale and distribute the proceeds in the following order of priority:

53 (1) For the payment of reasonable expenses incurred in connection with the sale or
54 disposal;

55 (2) For the satisfaction of exempt interests in the order of their priority; and

56 (3) Any balance of the proceeds shall be preserved in the actual or constructive
57 custody of the court, in an interest bearing account, subject to further proceedings under
58 sections 546.2000 to 546.2072.

 546.2021. 1. Forfeiture proceedings shall be commenced as follows:

2 (1) Property seized for forfeiture shall be released on the request of an owner or
3 interest holder to his or her custody, as custodian for the court, pending further
4 proceedings under sections 546.2000 to 546.2072 if the attorney for the state fails:

5 (a) To file a notice of pending forfeiture against the property within ninety days
6 after seizure; or

7 (b) To file a judicial forfeiture proceeding within ninety days after notice of
8 pending forfeiture of property upon which a proper claim has been timely filed.

9 (2) Within thirty days after the effective date of the notice of pending forfeiture, an
10 owner of or interest holder in the property may elect to file with the attorney for the state:

11 (a) A claim under section 546.2030; or

12 (b) A petition for recognition of exemption under section 546.2030, except that no
13 petition may be filed after the state commences a court action.

14 (3) No extension of time for the filing of a claim shall be granted;

15 **(4) If a petition is timely filed, the attorney for the state may delay filing a judicial**
16 **forfeiture proceeding for one hundred and eighty days after the notice of pending**
17 **forfeiture, and the following procedures shall apply:**

18 **(a) The attorney for the state shall provide the seizing agency and the petitioning**
19 **party with a written recognition of exemption and statement of nonexempt interests**
20 **relating to any or all interests in the property in response to each petitioning party:**

21 **a. Within sixty days after the effective date of the notice of pending forfeiture if the**
22 **petitioner is a regulated interest holder. The recognition of exemption shall recognize the**
23 **interest of the petitioner to the extent of documented outstanding principal plus interest**
24 **at the contract rate until paid; or**

25 **b. Within one hundred and twenty days after the effective date of the notice of**
26 **pending forfeiture for all other petitioners.**

27 **(b) An owner or interest holder in any property declared nonexempt may file a**
28 **claim under section 546.2030 within thirty days after the effective date of the notice of the**
29 **recognition of exemption and statement of nonexempt interest.**

30 **(c) If no petitioning party timely files a proper claim under subdivision (4) of this**
31 **subsection, the recognition of exemption and statement of nonexempt interests becomes**
32 **final, and the attorney for the state shall proceed as provided in sections 546.2045 and**
33 **546.2048.**

34 **(d) The attorney for the state may elect to proceed herein for judicial forfeiture at**
35 **any time.**

36 **(e) If a judicial forfeiture proceeding follows the application of procedures in this**
37 **paragraph:**

38 **a. No duplicate or repetitive notice is required. If a proper claim has been timely**
39 **filed under paragraph (b) of subdivision (4) of this subsection, the claim shall be**
40 **determined in a judicial forfeiture proceeding after the commencement of such a**
41 **proceeding under sections 546.2036, 546.2039, and 546.2042;**

42 **b. The proposed recognition of exemption and statement of nonexempt interests**
43 **responsive to all petitioning parties who subsequently filed claims are void and will be**
44 **regarded as rejected offers to compromise.**

45 **(5) If no proper petition for recognition of exemption or proper claim is timely**
46 **filed, the attorney for the state shall proceed as provided in sections 546.2045 and 546.2048.**

47 **2. (1) Notice of pending forfeiture, service of an in rem complaint or notice of a**
48 **recognition of exemption and statement of nonexempt interests required under sections**
49 **546.2000 to 546.2072, shall be given in accordance with one of the following:**

50 **(a) If the owner's or interest holder's name and current address are known, by**
51 **either personal service by any person qualified to serve process or by any law enforcement**

52 officer or by mailing a copy of the notice by certified mail, return receipt requested, to that
53 address.

54 (b) If the owner's or interest holder's name and address are required by law to be
55 on record with the county recorder, secretary of state, department of revenue or another
56 state or federal agency to perfect an interest in the property, and the owner's or interest
57 holder's current address is not known, by mailing a copy of the notice by certified mail,
58 return receipt requested, to any address of record with any of the described agencies.

59 (c) If the owner's or interest holder's address is not known and is not on record as
60 provided in paragraph (d) of subdivision (4) of subsection 1 of this section, or the owner
61 or interest holder's interest is not known, by publication in one issue of a newspaper of
62 general circulation in the county in
63 which the seizure occurred;

64 (2) Notice is effective upon the earlier of personal service, publication, or the
65 mailing of a written notice, except that notice of pending forfeiture of real property is not
66 effective until it is recorded. Notice of pending forfeiture shall include a description of the
67 property, the date and place of seizure, the conduct giving rise to forfeiture or the violation
68 of law alleged, and a summary of procedures and procedural rights applicable to the
69 forfeiture action.

546.2024. 1. The attorney for the state may file, without a filing fee, a lien for the
2 forfeiture of property:

3 (1) Upon the initiation of any civil or criminal proceeding relating to conduct giving
4 rise to forfeiture under sections 546.2000 to 546.2072;

5 (2) Upon seizure for forfeiture; or

6 (3) In connection with a proceeding or seizure for forfeiture in any other state
7 under a state or federal statute substantially similar to the relevant provisions of sections
8 546.2000 to 546.2072. The filing constitutes notice to any person claiming an interest in the
9 seized property or in property owned by the named person.

10 2. The lienor, as soon as practical after filing a lien, shall furnish to any person
11 named in the lien a notice of the filing of the lien. Failure to furnish notice under this
12 subsection shall not invalidate or otherwise affect the lien.

13 3. The lien notice shall set forth:

14 (1) The name of the person and, in the discretion of the lienor, any alias, or the
15 name of any corporation, partnership, trust, or other entity, including nominees, that are
16 owned entirely or in part, or controlled by the person;

17 (2) The description of the seized property or the criminal or civil proceeding that
18 has been brought relating to conduct giving rise to forfeiture under sections 546.2000 to
19 546.2072;

20 (3) The amount claimed by the lienor;

21 (4) The name of the court where the proceeding or action has been brought; and

22 (5) The case number of the proceeding or action if known at the time of filing.

23 4. The notice of forfeiture lien shall be filed in accordance with the provisions of
24 the laws of this state relating to the type of property that is subject to the lien. The validity
25 and priority of the forfeiture lien shall be determined in accordance with applicable law
26 pertaining to liens.

27 5. A lien filed under this subsection applies to the described seized property or to
28 one named person, any aliases, fictitious names, or other names, including the names of any
29 corporation, partnership, trust, or other entity, owned entirely or in part, or controlled by
30 the named person, and any interest in real property owned or controlled by the named
31 person. A separate forfeiture lien shall be filed for each named person.

32 6. The notice of lien creates, upon filing, a lien in favor of the lienor as it relates to
33 the seized property or the named person or related entities. The lien secures the amount
34 of potential liability for civil judgment, and, if applicable, the fair market value of seized
35 property relating to all proceedings under sections 546.2000 to 546.2072 enforcing the lien.

36 7. The lienor may amend or release, in whole or in part, a lien filed under this
37 subsection at any time by filing, without a filing fee, an amended lien.

38 8. Upon entry of judgment in its favor, the state may proceed to execute on the lien
39 as provided by law.

 546.2027. 1. Except as provided in subsection 2 of this section, a trustee,
2 constructive or otherwise, who has notice that a notice of forfeiture lien, or a notice of
3 pending forfeiture, or a civil forfeiture proceeding has been filed against the property or
4 against any person or entity for whom the person holds title or appears as record owner,
5 shall furnish within fifteen days, to the seizing agency or the attorney for the state:

6 (1) The name and address of each person or entity for whom the property is held;

7 (2) The description of all other property whose legal title is held for the benefit of
8 the named person; and

9 (3) A copy of the applicable trust agreement or other instrument, if any, under
10 which the trustee or other person holds legal title or appears as record owner of the
11 property.

12 2. Subsection 1 of this section is inapplicable if:

13 (1) A trustee is acting under a recorded subdivision trust agreement or a recorded
14 deed of trust; or

15 (2) All of the information is of record in the public records giving notice of liens on
16 that type of property.

17 **3. A trustee with notice who knowingly fails to comply with the provisions of this**
18 **subsection shall be guilty of violating such provision and may, upon conviction, be**
19 **sentenced to imprisonment for not less than two nor more than five years, and shall be**
20 **fined not less than ten thousand dollars per day for each day compliance was not made.**

21 **4. A trustee with notice who fails to comply with subsection 1 of this section is**
22 **subject to a civil penalty of three hundred dollars for each day of noncompliance. The**
23 **court shall enter judgment ordering payment of three hundred dollars for each day of**
24 **noncompliance from the effective date of the notice until the required information is**
25 **furnished or the state executes its judgment lien under this section.**

26 **5. To the extent permitted by the Constitution of the United States, the duty to**
27 **comply with subsection 1 of this section shall not be excused by any privilege or provision**
28 **of law of this state or any other state or country which authorizes or directs that testimony**
29 **or records required to be furnished under subsection 1 of this section are privileged or**
30 **confidential or otherwise may not be disclosed.**

31 **6. A trustee who furnishes information under subsection 1 of this section is immune**
32 **from civil liability for the release of the information.**

33 **7. An employee of the seizing agency or the attorney for the state who releases the**
34 **information obtained under subsection 1 of this section, except in the proper discharge of**
35 **official duties, is guilty of a class A misdemeanor.**

36 **8. If any information furnished under subsection 1 of this section is offered in**
37 **evidence, the court may seal that portion of the record or may order that the information**
38 **be disclosed in a designated way.**

39 **9. A judgment or an order of payment entered under this section becomes a**
40 **judgment lien against the property alleged to be subject to forfeiture.**

546.2030. 1. Only an owner of or interest holder in property seized for forfeiture
2 **may file a claim, and shall do so in the manner provided in this section. The claim shall be**
3 **mailed to the seizing agency and to the attorney for the state by certified mail, return**
4 **receipt requested, within thirty days after the effective date of notice of pending forfeiture.**
5 **No extension of time for the filing of a claim shall be granted.**

6 **2. The attorney for the state may make an opportunity to file a petition for**
7 **recognition of exemption available by so indicating in the notice of pending forfeiture**
8 **described in subsection 1 of section 546.2021.**

9 **3. The claim or petition and all supporting documents shall be in affidavit form,**
10 **signed by the claimant under oath, and sworn to by the affiant before one who has**
11 **authority to administer the oath, under penalty of perjury and shall set forth:**

- 12 (1) The caption of the proceedings and identifying number, if any, as set forth on
13 the notice of pending forfeiture or complaint, the name of the claimant, and the name of
14 the attorney for the state who authorized the notice of pending forfeiture or complaint;
15 (2) The address where the claimant will accept mail;
16 (3) The nature and extent of the claimant's interest in the property;
17 (4) The date, the identity of the transferor, and the circumstances of the claimant's
18 acquisition of the interest in the property;
19 (5) The specific provision of sections 546.2000 to 546.2072 relied on in asserting that
20 the property is not subject to forfeiture;
21 (6) All essential facts supporting each assertion; and
22 (7) The specific relief sought.

546.2033. 1. A judicial forfeiture proceeding under sections 546.2000 to 546.2072
2 is subject to the provisions of this section.

3 **2.** The court, before or after the filing of a notice of pending forfeiture or complaint
4 and on application of the attorney for the state, may:

- 5 (1) Enter any restraining order or injunction;
6 (2) Require the execution of satisfactory performance bonds;
7 (3) Create receiverships;
8 (4) Appoint conservators, custodians, appraisers, accountants, or trustees; or
9 (5) Take any other action to seize, secure, maintain, or preserve the availability of
10 property subject to forfeiture under sections 546.2000 to 546.2072, including a writ of
11 attachment or a warrant for its seizure.

12 **3.** The court, after five days notice to the attorney for the state, may issue an order
13 to show cause to the seizing agency, for a hearing on the sole issue of whether probable
14 cause for forfeiture of the property then exists if:

15 (1) Property is seized for forfeiture or a forfeiture lien is filed without a previous
16 judicial determination of probable cause, order of forfeiture, or a hearing under subsection
17 4 of section 546.2039;

18 (2) An owner of or interest holder in the property files an application within ten
19 days after notice of its seizure for forfeiture or lien, or actual knowledge of it, whichever
20 is earlier; and

21 (3) The owner of or interest holder in the property complies with the requirements
22 for claims in section 546.2030. The hearing shall be held within thirty days of the order to
23 show cause unless continued for good cause on motion of either party.

24 **4.** If the court finds in a hearing under subsection 3 of this section that there is no
25 probable cause for forfeiture of the property, or if the state elects not to contest the issue,
26 the property shall be released to the custody of the applicant, as custodian for the court,

27 or from the lien pending the outcome of a judicial proceeding under sections 546.2000 to
28 546.2072. If the court finds that probable cause for the forfeiture of the property exists,
29 the court shall not order the property released.

30 5. All applications filed within the ten day period prescribed by subsection 3 of this
31 section shall be consolidated for a single hearing relating to each applicant's interest in the
32 property seized for forfeiture.

33 6. A person charged with a criminal offense may apply to the court where the
34 forfeiture proceeding is pending for the release of property seized for forfeiture, to pay
35 necessary expenses of the person's criminal defense. The application may be filed at any
36 time before final judgment and shall satisfy the requirements under subsection 3 of section
37 546.2030. The court shall hold a probable cause hearing if the applicant establishes that:

38 (1) He has not had an opportunity to participate in a previous adversarial judicial
39 determination of probable cause;

40 (2) He has no access to other monies adequate for the payment of criminal defense
41 counsel; and

42 (3) The interest in property to be released is not subject to any claim other than the
43 forfeiture.

44 7. If the court finds in a hearing under subsection 6 of this section that there is no
45 probable cause for forfeiture of the property, the court shall order the property released
46 under subsection 4 of this section. If the state does not contest the hearing, the court may
47 release a reasonable amount of property for the payment of the applicant's criminal
48 defense costs. Property that has been released by the court and that has been paid for
49 criminal defense services actually rendered is exempt under sections 546.2000 to 546.2072.

50 8. A defendant convicted in any criminal proceeding is precluded from later
51 denying the essential allegations of the criminal offense of which the defendant was
52 convicted in any proceeding under this section. For the purposes of this section, a
53 conviction results from a verdict or plea of guilty, including a plea of no contest, nolo
54 contendere or an Alford plea.

55 9. In any proceeding under sections 546.2000 to 546.2072, if a claim is based on an
56 exemption provided for in sections 546.2000 to 546.2072, the burden of proving the
57 existence of the exemption is on the claimant, and it is not necessary for the state to negate
58 the exemption in any application or complaint.

59 10. In hearings and determinations under this section, the court may receive and
60 consider, in making any determination of probable cause or reasonable cause, all evidence
61 admissible in determining probable cause at a preliminary hearing or by a judge under
62 section 542.276, RSMo, together with inferences there from.

63 **11. The fact that money or a negotiable instrument was found in close proximity**
64 **to contraband or an instrumentality of conduct giving rise to forfeiture shall give rise to**
65 **the rebuttable presumption that the money or negotiable instrument was the proceeds of**
66 **conduct giving rise to forfeiture or was used or intended to be used to facilitate the**
67 **conduct.**

68 **12. There shall be a rebuttable presumption that any property of a person is subject**
69 **to forfeiture under sections 546.2000 to 546.2072 if the state establishes, by the standard**
70 **of proof applicable to that proceeding, that:**

71 **(1) The person has engaged in conduct giving rise to forfeiture;**

72 **(2) The property was acquired by the person during that period of the conduct**
73 **giving rise to forfeiture or within a reasonable time after that period; and**

74 **(3) There was no likely source for the property other than the conduct giving rise**
75 **to forfeiture.**

76 **13. A finding that property is the proceeds of conduct giving rise to forfeiture does**
77 **not require proof that the property is the proceeds of any particular exchange or**
78 **transaction.**

79 **14. A person who acquires any property subject to forfeiture is a constructive**
80 **trustee of the property, and its fruits, for the benefit of the state, to the extent that their**
81 **interest is not exempt from forfeiture. If property subject to forfeiture has been**
82 **commingled with other property, the court shall order the forfeiture of the mingled**
83 **property and of any fruits of the mingled property, to the extent of the property subject**
84 **to forfeiture, unless an owner or interest holder proves that specified property does not**
85 **contain property subject to forfeiture, or that their interest in specified property is exempt**
86 **from forfeiture.**

87 **15. Title to all property declared forfeited under sections 546.2000 to 546.2072 vests**
88 **in this state on the commission of the conduct giving rise to forfeiture together with the**
89 **proceeds of the property after that time. Any such property or proceeds subsequently**
90 **transferred to any person remain subject to forfeiture and thereafter shall be ordered**
91 **forfeited unless the transferee claims and establishes in a hearing under the provisions of**
92 **sections 546.2000 to 546.2072 that the transferee's interest is exempt under section**
93 **546.2012.**

94 **16. An acquittal or dismissal in a criminal proceeding shall not preclude civil**
95 **proceedings under sections 546.2000 to 546.2072.**

96 **17. For good cause shown, on motion by the attorney for the state, the court may**
97 **stay discovery against the criminal defendant and against the state in civil forfeiture**
98 **proceedings during a criminal trial for a related criminal indictment or information**

alleging the same conduct, after making provision to prevent loss to any party resulting from the delay. Such a stay shall not be available pending an appeal.

18. Except as otherwise provided by sections 546.2000 to 546.2072, all proceedings hereunder shall be governed by the rules of civil procedure.

19. An action under sections 546.2000 to 546.2072 shall be consolidated with any other action or proceeding under sections 546.2000 to 546.2072 or to foreclosure or trustee sale proceedings relating to the same property on motion of the attorney for the state, and may be consolidated on motion of an owner or interest holder.

546.2036. 1. A judicial in rem forfeiture proceeding may be brought by the attorney for the state in addition to, or in lieu of, civil in personam forfeiture procedures and is also subject to the provisions of this section. If a forfeiture is authorized by sections 546.2000 to 546.2072, it shall be ordered by the court in the in rem action.

2. An action in rem may be brought by the attorney for the state under a notice of pending forfeiture or verified complaint for forfeiture. The state may serve the complaint in the manner provided by subsection 3 of section 546.2021, or as provided by the rules of civil procedure.

3. Only an owner of or an interest holder in the property who has timely filed a proper claim may file an answer in an action in rem. For the purposes of this section, an owner of or interest holder in property who has filed a claim and answer shall be referred to as a claimant.

4. The answer shall be signed by the owner or interest holder under penalty of perjury and shall be in accordance with the rules of civil procedure on answers and shall also set forth all of the following:

(1) The caption of the proceedings and identifying number, if any, as set forth on the notice of pending forfeiture or complaint and the name of the claimant;

(2) The address where the claimant will accept mail;

(3) The nature and extent of the claimant's interest in the property;

(4) The date, the identity of the transferor, and the circumstances of the claimant's acquisition of the interest in the property;

(5) The specific provision of sections 546.2000 to 546.2072 relied on in asserting that it is not subject to forfeiture;

(6) All essential facts supporting each assertion; and

(7) The specific relief sought.

5. The answer, accompanied by a bond to the court, shall be filed within twenty days after service of the civil in rem complaint. The bond amount shall be the greater of two thousand five hundred dollars or ten percent of the estimated value of the property as alleged in the complaint, or up to a maximum of two hundred fifty thousand dollars. In

30 lieu of a cost bond, a claimant may under penalty of perjury move the court to proceed in
31 forma pauperis. Any funds received by the court as cost bonds shall be placed in an
32 interest-bearing account pending final disposition of the case. The court shall approve
33 sureties upon condition that the claimant shall pay all costs and expenses of the forfeiture
34 proceedings as provided in section 546.2045.

35 6. The state and any claimant who has timely answered the complaint may serve
36 discovery requests on any other party at the time of filing its pleadings or at any other time
37 not less than thirty days prior to the hearing. Answers or responses to the requests are due
38 within twenty days of service. Depositions may be taken after the expiration of fifteen days
39 after the filing and service of the complaint. Any party may move for a summary judgment
40 after service of an answer or responsive pleading but not less than thirty days prior to the
41 hearing.

42 7. The forfeiture hearing shall be held without a jury and within sixty days after
43 service of the complaint unless continued for good cause. The attorney for the state shall
44 have the initial burden of proving the property is subject to forfeiture by a preponderance
45 of the evidence. If the state proves the property is subject to forfeiture, the claimant has
46 the burden of proving that the claimant has an interest in the property which is exempt
47 from forfeiture under sections 546.2000 to 546.2072 by a preponderance of the evidence.

48 8. The court shall order the interest in the property returned or conveyed to the
49 claimant if the attorney for the state fails to meet the state's burden or the claimant
50 establishes by a preponderance of the evidence that the claimant has an interest that is
51 exempt from forfeiture. The court shall order all other property forfeited to this state and
52 conduct further proceedings under sections 546.2045 and 546.2048.

546.2039. 1. A judicial in personam forfeiture proceeding brought by the attorney
2 for the state under an in personam civil action alleging conduct giving rise to forfeiture is
3 also subject to the provisions of this section. If a forfeiture is authorized by sections
4 546.2000 to 546.2072, it shall be ordered by the court in the in personam action. This
5 action shall be in addition to or in lieu of in rem forfeiture procedures.

6 2. The court, on application of the attorney for the state, may enter any order
7 authorized by section 546.2033, or any other appropriate order to protect the state's
8 interest in property forfeited or subject to forfeiture.

9 3. The court may issue a temporary restraining order on application of the attorney
10 for the state, if the state demonstrates that:

11 (1) There is probable cause to believe that in the event of a final judgment, the
12 property involved would be subject to forfeiture under the provisions of sections 546.2000
13 to 546.2072; and

14 (2) Provision of notice would jeopardize the availability of the property for
15 forfeiture.

16 4. Notice of the issuance of a temporary restraining order and an opportunity for
17 a hearing shall be given to persons known to have an interest in the property. A hearing
18 shall be held at the earliest possible date in accordance with the rules of civil procedure and
19 shall be limited to the issues of whether:

20 (1) There is a probability that the state will prevail on the issue of forfeiture;

21 (2) The failure to enter the order will result in the property being destroyed,
22 conveyed, encumbered, removed from the jurisdiction of the court, concealed, or otherwise
23 made unavailable for forfeiture; and

24 (3) The need to preserve the availability of property outweighs the hardship on any
25 owner or interest holder against whom the order is to be entered.

26 5. On a determination of liability of a person for conduct giving rise to forfeiture
27 under sections 546.2000 to 546.2072, the court shall:

28 (1) Enter a judgment of forfeiture of the property found to be subject to forfeiture
29 described in the complaint; and

30 (2) Authorize the attorney for the state or his designee or any law enforcement
31 officer to seize all property ordered forfeited which was not previously seized or is not then
32 under seizure.

33 6. Except as provided in section 546.2033, no person claiming an interest in
34 property subject to forfeiture under sections 546.2000 to 546.2072 may intervene in a trial
35 or appeal of a criminal action or in an in personam civil action involving the forfeiture of
36 the property.

37 7. Following the entry of an in personam forfeiture order, the attorney for the state
38 may proceed with an in rem action to resolve the remaining interests in the property. The
39 following procedures shall apply:

40 (1) The attorney for the state may give notice of pending forfeiture, in the manner
41 provided in section 546.2021, to all owners and interest holders who have not previously
42 been given notice.

43 (2) An owner of or interest holder in property that has been ordered forfeited and
44 whose claim is not precluded may file a claim as described in section 546.2030 within thirty
45 days after initial notice of pending forfeiture or after notice under subdivision (1) of this
46 subsection, whichever is earlier.

47 (3) If the state does not recognize the claimed exemption, the attorney for the state
48 shall file a complaint and the court shall hold an in rem forfeiture hearing as provided for
49 in section 546.2036.

50 (4) In accordance with findings made at the hearing, the court may amend the
51 order of forfeiture if it determines that any claimant has established by a preponderance
52 of the evidence that the claimant has an interest in the property which is exempt under the
53 provision of section 546.2012.

 546.2042. 1. The court shall order the forfeiture of any other property of a person,
2 including a claimant, up to the value of that person's property found by the court to be
3 subject to forfeiture under sections 546.2000 to 546.2072, if any of the person's forfeitable
4 property:

5 (1) Cannot be located;

6 (2) Has been transferred or conveyed to, sold to, or deposited with a third party;

7 (3) Is beyond the jurisdiction of the court;

8 (4) Has been substantially diminished in value while not in the actual physical
9 custody of the court, the seizing agency, the attorney for the state, or their designee;

10 (5) Has been commingled with other property that cannot be divided without
11 difficulty; or

12 (6) Is subject to any interest of another person which is exempt from forfeiture
13 under sections 546.2000 to 546.2072.

14 2. (1) The attorney for the state may institute a civil action in circuit court against
15 any person with notice or actual knowledge who destroys, conveys, encumbers, removes
16 from the jurisdiction of the court, conceals, or otherwise renders unavailable property
17 alleged to be subject to forfeiture if:

18 (a) A forfeiture lien or notice of pending forfeiture has been filed and notice given
19 under section 546.2021; or

20 (b) A complaint alleging conduct giving rise to forfeiture has been filed and notice
21 given under such section 546.2021 or the rules of civil procedure.

22 (2) The court shall enter a final judgment in an amount equal to the value of the
23 lien not to exceed the fair market value of the property, or if there is no lien, in an amount
24 equal to the fair market value of the property, together with reasonable investigative
25 expenses and attorney fees.

26 (3) If a civil proceeding under sections 546.2000 to 546.2072 is pending in court, the
27 action shall be heard by that court.

 546.2045. 1. If notice of pending forfeiture is properly served in an action in rem
2 or in personam in which personal property is seized, and no claim opposing forfeiture is
3 filed within thirty days of service of such notice, the attorney for the state shall prepare a
4 written declaration of forfeiture of the subject property to the state and allocate the
5 property according to the provisions of section 546.2048.

6 **2. Within one hundred eighty days of the date of a declaration of forfeiture, an**
7 **owner or interest holder in property declared forfeited under subsection 1 of this section**
8 **may, petition the court to have the declaration of forfeiture set aside, after making a prima**
9 **facie showing that the state failed to serve proper notice as provided by subsection 1 of this**
10 **section. Upon said showing the court shall allow the state to demonstrate by a**
11 **preponderance of the evidence that notice was properly served. If the state fails to meet**
12 **its burden of proof, the court may order the declaration of forfeiture set aside. The state**
13 **may then proceed with judicial proceedings under sections 546.2000 to 546.2072.**

14 **3. Except as provided in subsection 1 of this section, if no proper claims are timely**
15 **filed in an action in rem, or if no proper answer is timely filed in response to a complaint,**
16 **the attorney for the state may apply for an order of forfeiture and allocation of forfeited**
17 **property under section 546.2048. Upon a determination by the court that the state's written**
18 **application established the court's jurisdiction, the giving of proper notice, and facts**
19 **sufficient to show probable cause for forfeiture, the court shall order the property forfeited**
20 **to the state.**

21 **4. After final disposition of all claims timely filed in an action in rem, or after final**
22 **judgment and disposition of all claims timely filed in an action in personam, the court shall**
23 **enter an order that the state has clear title to the forfeited property interest. Title to the**
24 **forfeited property interest and its proceeds shall be deemed to have vested in the state on**
25 **the commission of the conduct giving rise to the forfeiture under sections 546.2000 to**
26 **546.2072.**

27 **5. The court, on application of the attorney for the state, may release or convey**
28 **forfeited personal property to a regulated interest holder if:**

29 **(1) The attorney for the state, in his discretion, has recognized in writing that the**
30 **interest holder has an interest that is exempt from forfeiture;**

31 **(2) The interest holder's interest was acquired in the regular course of business as**
32 **a regulated interest holder;**

33 **(3) The amount of the interest holder's encumbrance is readily determinable and**
34 **it has been reasonably established by proof made available by the attorney for the state to**
35 **the court; and**

36 **(4) The encumbrance held by the interest holder seeking possession is the only**
37 **interest exempted from forfeiture and the order forfeiting the property to the state**
38 **transferred all of the rights of the owner prior to forfeiture, including rights to redemption,**
39 **to the state.**

40 **6. After the court's release or conveyance under subsection 3 of this section, the**
41 **interest holder shall dispose of the property by a commercially reasonable public sale.**
42 **Within ten days of disposition the interest holder shall tender to the state the amount**

43 received at disposition less the amount of the interest holder's encumbrance and reasonable
44 expenses incurred by the interest holder in connection with the sale or disposal. For the
45 purposes of this section "commercially reasonable" shall be a sale or disposal that would
46 be commercially reasonable as defined under the Uniform Commercial Code.

47 **7. On order of the court or declaration of forfeiture forfeiting the subject property,**
48 **the state may transfer good and sufficient title to any subsequent purchaser or transferee.**
49 **The title shall be recognized by all courts and agencies of this state, and any political**
50 **subdivision. On entry of judgment in favor of a person claiming an interest in the property**
51 **that is subject to forfeiture proceedings under sections 546.2000 to 546.2072, the court shall**
52 **enter an order that the property or interest in property shall be released or delivered**
53 **promptly to that person free of liens and encumbrances under sections 546.2000 to**
54 **546.2072, and that the person's cost bond shall be discharged.**

55 **8. Upon motion by the attorney for the state, if it appears after, a hearing that there**
56 **was reasonable cause for the seizure for forfeiture or for the filing of the notice of pending**
57 **forfeiture or complaint, the court shall find that:**

58 **(1) Reasonable cause existed, or that any such action was taken under a reasonable**
59 **good faith belief that it was proper;**

60 **(2) The claimant is not entitled to costs or damages; and**

61 **(3) The person or seizing agency who made the seizure and the attorney for the**
62 **state are not liable to suit or judgment for the seizure, suit or prosecution.**

63 **9. The court shall order a claimant who fails to establish that a substantial portion**
64 **of the claimant's interest is exempt from forfeiture under section 546.2012 to pay the**
65 **reasonable costs and expenses:**

66 **(1) Of any claimant who established that his entire interest is exempt from**
67 **forfeiture under section 546.2012; and**

68 **(2) Of the state for the investigation and prosecution of the matter, including**
69 **reasonable attorney fees, in connection with that claimant.**

546.2048. 1. When property is forfeited under sections 546.2000 to 546.2072 the
2 **attorney for the state may:**

3 **(1) Upon the written approval of the attorney for the state, destroy or use for**
4 **investigative purposes, any illegal or controlled substances or other contraband, after not**
5 **less than twenty days after the seizure, provided that materials necessary as evidence shall**
6 **be preserved; or**

7 **(2) Authorize a public or otherwise commercially reasonable sale of that which is**
8 **not required by law to be destroyed and which is not harmful to the public. The proceeds**
9 **of any sale and any monies forfeited or obtained by judgment or settlement under this**
10 **section shall be distributed as provided in subdivision (3) of this subsection.**

11 (3) The office of the prosecuting or circuit attorney shall distribute monies in the
12 following order of priority:

13 (a) The satisfaction of any exempt security interest or lien;

14 (b) For the payment of all proper expenses of the proceedings for forfeiture and
15 disposition, including but not limited to, expenses of seizure, inventory, appraisal,
16 maintenance of custody, preservation of availability, advertising, sale and court costs; as
17 well as the cost for ongoing school safety measures which may include but are not limited
18 to school safety educational program activities, school resource officers, school protection
19 activities, and drug eradication efforts. The costs contained in this paragraph shall be paid
20 to the law enforcement entities involved in the seizure and forfeiture, and shall not exceed
21 fifty percent of the total proceeds of the sale, judgment, or settlement; and

22 (c) The remaining proceeds shall be distributed under Article IX, Section 7 of the
23 Constitution of the state of Missouri.

24 2. The attorney for the state may require the appropriate administrative agency to
25 take custody of the property and remove it for disposition in accordance with law, and to
26 forward controlled substances to the United States Drug Enforcement Administration for
27 disposition.

 546.2051. 1. An attorney for the state may conduct an investigation of any conduct
2 that gives rise to forfeiture under sections 546.2000 to 546.2072. The attorney for the state
3 is authorized, before the commencement of any proceeding or action under sections
4 546.2000 to 546.2072, to subpoena witnesses; compel their attendance; examine them under
5 oath; and require the production of documentary evidence for inspection, reproducing, or
6 copying. Except as otherwise provided by this section, the attorney for the state shall
7 proceed under this subsection with the same powers and limitations, and judicial oversight
8 and enforcement, and in the manner provided by sections 546.2000 to 546.2072 and by the
9 rules of civil procedure. Any person compelled to appear under a demand for oral
10 testimony under this section may be accompanied, represented, and advised by counsel.

11 2. The examination of all witnesses under this section shall be conducted by the
12 attorney for the state before an officer authorized to administer oaths. The testimony shall
13 be taken stenographically or by a sound recording device and shall be transcribed or
14 otherwise preserved. The attorney for the state may exclude from the examination all
15 persons except the witness, his counsel, the officer before whom the testimony is to be
16 taken, law enforcement officials, and a stenographer. Prior to oral examination, the person
17 shall be advised of his right to refuse to answer any questions on the basis of the privilege
18 against self-incrimination. The examination shall be conducted in a manner consistent
19 with the rules of civil procedure dealing with the taking of depositions.

20 3. Except as otherwise provided in this section, prior to the filing of a civil or
21 criminal proceeding or action relating to it, no documentary material, or transcripts, or
22 oral testimony, in the possession of the attorney for the state shall be available, for
23 examination by any individual other than a law enforcement official or agent of such
24 official without the consent of the person who produced the material or transcripts.

25 4. No person shall knowingly remove from any place, conceal, withhold, destroy,
26 mutilate, alter, or by any other means falsify any documentary material that is the subject
27 of a subpoena, with intent to avoid, evade, prevent, or obstruct compliance in whole or in
28 part by any person with any duly served subpoena of the attorney for the state under this
29 section. A violation of this subsection is a class C felony. The attorney for the state shall
30 investigate and prosecute suspected violations of this subsection.

31 5. Acts or omissions by the attorneys for the state in the course of their duties in the
32 enforcement of any of the provisions of sections 546.2000 to 546.2072, including provision
33 of any legal services prior to charging, complaint or seizure, are prosecutorial and shall not
34 subject the attorneys or their principals to civil liability.

 546.2054. 1. If a person is or may be called to produce evidence at a deposition,
2 hearing or trial under sections 546.2000 to 546.2072 or at an investigation brought by the
3 attorney for the state under section 546.2051, the circuit court for the judicial circuit in
4 which the deposition, hearing, trial, or investigation is or may be held shall, upon
5 certification in writing of a request of the prosecuting or circuit attorney for that judicial
6 circuit, issue an order, ex parte or after a hearing, requiring the person to produce
7 evidence, notwithstanding that person's refusal to do so on the basis of the privilege against
8 self-incrimination.

9 2. The prosecuting or circuit attorney may certify in writing a request for an ex
10 parte order under subsection 1 of this section if in his or her judgment:

11 (1) The production of the evidence may be necessary to the public interest; and

12 (2) The person has refused or is likely to refuse to produce evidence on the basis of
13 his or her privilege against self-incrimination.

14 3. A person may not refuse to comply with an order issued under subsection 1 of
15 this section on the basis of a self incrimination privilege. If the person refuses to comply
16 with the order after being informed of its existence by the presiding officer, the person may
17 be compelled or punished by the circuit court issuing an order for civil or criminal
18 contempt.

19 4. The production of evidence compelled by order issued under subsection 1 of this
20 section, and any information directly or indirectly derived from it, may not be used against
21 the person in a subsequent criminal case, except in a prosecution for perjury, false
22 swearing, or an offense otherwise involving a failure to comply with the order.

546.2057. A civil action under sections 546.2000 to 546.2072 shall be commenced
2 within seven years after the last conduct giving rise to forfeiture or the cause of action
3 becomes known or should have become known, excluding any time during which either the
4 property or defendant is out of the state or in confinement, or during which criminal
5 proceedings relating to the same conduct are pending.

546.2060. Controlled substances included in section 195.017, RSMo, which are
2 contraband and any controlled substance whose owners are unknown are summarily
3 forfeited to the state. The court may include in any judgment under sections 546.2000 to
4 546.2072 an order forfeiting any controlled substance involved in the offense to the extent
5 of the defendant's interest.

546.2063. No person claiming an interest in property subject to forfeiture may
2 commence or maintain any action against the state concerning the validity of the alleged
3 interest other than as provided in sections 546.2000 to 546.2072.

546.2066. The provisions of sections 546.2000 to 546.2072 shall be liberally
2 construed to effectuate their remedial purposes. Civil remedies under sections 546.2000
3 to 546.2072 shall be supplemental and not mutually exclusive. They do not preclude and
4 are not precluded by any other provision of law.

546.2069. 1. The provisions of sections 546.2000 to 546.2072 shall be applied and
2 construed to effectuate their general purpose to make uniform the law with respect to the
3 subject of sections 546.2000 to 546.2072 among states enacting similar provisions.

4 2. The attorney general is authorized to enter into reciprocal agreements with the
5 attorney general or chief prosecuting attorney of any state to effectuate the purposes of
6 sections 546.2000 to 546.2072.

546.2072. If any provision of sections 546.2000 to 546.2072 or the application
2 thereof to any person or circumstance are held invalid, the invalidity does not affect other
3 provisions or applications of sections 546.2000 to 546.2072 which can be given effect
4 without the invalid provision or application, and to this end the provisions of these sections
5 are severable.

2 [513.600. Sections 513.600 to 513.645 shall be known and may be cited
3 as the "Criminal Activity Forfeiture Act".]

2 [513.605. As used in sections 513.600 to 513.645, unless the context
3 clearly indicates otherwise, the following terms mean:

3 (1) (a) "Beneficial interest":

4 a. The interest of a person as a beneficiary under any other trust
5 arrangement pursuant to which a trustee holds legal or record title to real property
6 for the benefit of such person; or

7 b. The interest of a person under any other form of express fiduciary
8 arrangement pursuant to which any other person holds legal or record title to real
9 property for the benefit of such person;

10 (b) "Beneficial interest" does not include the interest of a stockholder in
11 a corporation or the interest of a partner in either a general partnership or limited
12 partnership. A beneficial interest shall be deemed to be located where the real
13 property owned by the trustee is located;

14 (2) "Civil proceeding", any civil suit commenced by an investigative
15 agency under any provision of sections 513.600 to 513.645;

16 (3) "Criminal activity" is the commission, attempted commission,
17 conspiracy to commit, or the solicitation, coercion or intimidation of another
18 person to commit any crime which is chargeable by indictment or information
19 under the following Missouri laws:

20 (a) Chapter 195, RSMo, relating to drug regulations;
21 (b) Chapter 565, RSMo, relating to offenses against the person;
22 (c) Chapter 566, RSMo, relating to sexual offenses;
23 (d) Chapter 568, RSMo, relating to offenses against the family;
24 (e) Chapter 569, RSMo, relating to robbery, arson, burglary and related
25 offenses;

26 (f) Chapter 570, RSMo, relating to stealing and related offenses;
27 (g) Chapter 567, RSMo, relating to prostitution;
28 (h) Chapter 573, RSMo, relating to pornography and related offenses;
29 (i) Chapter 574, RSMo, relating to offenses against public order;
30 (j) Chapter 575, RSMo, relating to offenses against the administration of
31 justice;

32 (k) Chapter 491, RSMo, relating to witnesses;
33 (l) Chapter 572, RSMo, relating to gambling;
34 (m) Chapter 311, RSMo, but relating only to felony violations of this
35 chapter committed by persons not duly licensed by the supervisor of liquor
36 control;

37 (n) Chapter 571, RSMo, relating to weapons offenses;
38 (o) Chapter 409, RSMo, relating to regulation of securities;
39 (p) Chapter 301, RSMo, relating to registration and licensing of motor
40 vehicles;

41 (4) "Criminal proceeding", any criminal prosecution commenced by an
42 investigative agency under any criminal law of this state;

43 (5) "Investigative agency", the attorney general's office, or the office of
44 any prosecuting attorney or circuit attorney;

45 (6) "Pecuniary value":

46 (a) Anything of value in the form of money, a negotiable instrument, a
47 commercial interest, or anything else the primary significance of which is
48 economic advantage; or

49 (b) Any other property or service that has a value in excess of one
50 hundred dollars;

51 (7) "Real property", any estate or legal or equitable interest in land
52 situated in this state or any interest in such real property, including, but not
53 limited to, any lease or deed of trust upon such real property;

54 (8) "Seizing agency", the agency which is the primary employer of the
55 officer or agent seizing the property, including any agency in which one or more
56 of the employees acting on behalf of the seizing agency is employed by the state
57 of Missouri or any political subdivision of this state;

58 (9) "Seizure", the point at which any law enforcement officer or agent
59 discovers and exercises any control over property that an officer or agent has
60 reason to believe was used or intended for use in the course of, derived from, or
61 realized through criminal activity. Seizure includes but is not limited to
62 preventing anyone found in possession of the property from leaving the scene of
63 the investigation while in possession of the property;

64 (10) (a) "Trustee":

65 a. Any person who holds legal or record title to real property for which
66 any other person has a beneficial interest; or

67 b. Any successor trustee or trustees to any of the foregoing persons;

68 (b) "Trustee" does not include the following:

69 a. Any person appointed or acting as a personal representative under
70 chapter 475, RSMo, or under chapter 473, RSMo;

71 b. Any person appointed or acting as a trustee of any testamentary trust
72 or as trustee of any indenture of trust under which any bonds are or are to be
73 issued.]
74

2 [513.607. 1. All property of every kind, including cash or other
3 negotiable instruments, used or intended for use in the course of, derived from,
4 or realized through criminal activity is subject to civil forfeiture. Civil forfeiture
5 shall be had by a civil procedure known as a CAFA forfeiture proceeding.

6 2. A CAFA forfeiture proceeding shall be governed by the Missouri rules
7 of court, rules of civil procedure, except to the extent that special rules of
8 procedure are stated herein.

9 3. Any property seized by a law enforcement officer or agent shall not be
10 disposed of pursuant to section 542.301, RSMo, or by the uniform disposition of
11 unclaimed property act, sections 447.500 through 447.595, RSMo, unless the
12 CAFA proceeding involving the seized property does not result in a judgment of
13 forfeiture.

14 4. In cases where the property is abandoned or unclaimed, an in rem
15 CAFA forfeiture proceeding may be instituted by petition by the prosecuting
16 attorney of the county in which the property is located or seized by the attorney
17 general's office. The proceeding may be commenced before or after seizure of
18 the property.

19 5. In lieu of, or in addition to, an in rem proceeding under subsection 4
of this section, the prosecuting attorney or attorney general may bring an in

20 personam action for the forfeiture of property, which may be commenced by
21 petition before or after the seizure of property.

22 6. (1) If the petition is filed before seizure, it shall state what property
23 is sought to be forfeited, that the property is within the jurisdiction of the court,
24 the grounds for forfeiture, and the names of all persons known to have or claim
25 an interest in the property. The court shall determine ex parte whether there is
26 reasonable cause to believe that the property is subject to forfeiture and that
27 notice to those persons having or claiming an interest in the property prior to
28 seizure would cause the loss or destruction of the property. If the court finds that
29 reasonable cause does not exist to believe the property is subject to forfeiture, it
30 shall dismiss the proceeding. If the court finds that reasonable cause does exist
31 to believe the property is subject to forfeiture but there is not reasonable cause to
32 believe that prior notice would result in loss or destruction, it shall order service
33 on all persons known to have or claim an interest in the property prior to a further
34 hearing on whether a writ of seizure should issue.

35 If the court finds that there is reasonable cause to believe that the property is
36 subject to forfeiture and to believe that prior notice would cause loss or
37 destruction, it shall without any further hearing or notice issue a writ of seizure
38 directing the sheriff of the county or other authorized law enforcement agency
39 where the property is found to seize it.

40 (2) Seizure may be effected by a law enforcement officer authorized to
41 enforce the criminal laws of this state prior to the filing of the petition and
42 without a writ of seizure if the seizure is incident to a lawful arrest, search, or
43 inspection and the officer has probable cause to believe the property is subject to
44 forfeiture and will be lost or destroyed if not seized.

45 Within four days of the date of seizure, such seizure shall be reported by said
46 officer to the prosecuting attorney of the county in which the seizure is effected
47 or the attorney general; and if in the opinion of the prosecuting attorney or
48 attorney general forfeiture is warranted, the prosecuting attorney or attorney
49 general shall, within ten days after receiving notice of seizure, file a petition for
50 forfeiture. The petition shall state, in addition to the information required in
51 subdivision (1) of this subsection, the date and place of seizure. The burden of
52 proof will be on the investigative agency to prove all allegations contained in the
53 petition.

54 7. After the petition is filed or the seizure effected, whichever is later,
55 every person known to have or claim an interest in the property shall be served,
56 if not previously served, with a copy of the petition and a notice of seizure in the
57 manner provided by the Missouri rules of court and rules of civil procedure.
58 Service by publication may be ordered upon any party whose whereabouts cannot
59 be determined or if there be unknown parties.

60 8. The prosecuting attorney or attorney general to whom the seizure is
61 reported shall report annually by January thirty-first for the previous calendar
62 year all seizures. Such report shall include the date, time, and place of seizure,
63 the property seized, the estimated value of the property seized, the person or

persons from whom the property was seized, the criminal charges filed, and the disposition of the seizure, forfeiture and criminal actions. The report shall be made to the director of the Missouri department of public safety and shall be considered an open record. The prosecuting attorney or attorney general shall submit a copy of the report to the state auditor at the time the report is made to the director of the department of public safety.

9. The state auditor shall make an annual report compiling the data received from law enforcement, prosecuting attorneys and the attorney general, and shall submit the report regarding seizures for the previous calendar year to the general assembly annually by February twenty-eighth.

10. Intentional or knowing failure to comply with any reporting requirement contained in this section shall be a class A misdemeanor, punishable by a fine of up to one thousand dollars.]

[513.610. 1. Any person claiming an interest in the property may become a party to the action at any time prior to judgment, whether named in the petition or not. Any party claiming a valid interest in the property shall upon motion be allowed by the court to take possession of the property upon posting bond with good and sufficient security in the amount of the property's value conditioned to pay the value of any interest in the property found to be subject to forfeiture or the value of any interest of another not subject to forfeiture. Such a party taking possession shall not remove the property from the jurisdiction of the court except pursuant to court order.

2. The court may, upon such terms and conditions as prescribed by it, order that the property be sold by an innocent party who holds a lien on or security interest in the property at any time during the proceedings. Any proceeds from such sale over and above the amount necessary to satisfy the lien or security interest shall be paid into court pending final judgment in the forfeiture proceeding. No such sale shall be ordered, however, unless the obligation upon which the lien or security interest is based is in default.

3. Pending final judgment in the forfeiture proceeding, the court may make any other disposition of the property as may be provided by the laws of this state which is in the interest of justice.]

[513.612. Any party may bring one motion to dismiss at any time and such motion shall be heard and ruled on within ten days. Any party may demand a jury trial.]

[513.615. The interest of an innocent party in the property shall not be subject to forfeiture. An "innocent party " is one who did not have actual knowledge that the property was used or intended for use in the course of, derived from or realized through a criminal activity. Any innocent party shall have a right or claim to forfeited property or to the proceeds derived therefrom superior to any right or claim the state or the county has in the same property or

7 proceeds. To enforce such a claim, the innocent party must intervene in the
8 forfeiture proceeding prior to its final disposition; except that, with respect to any
9 property for which the state maintains records of ownership, if the certificate of
10 title, the official records or other evidence of ownership indicates the existence
11 of a lien on the seized property or the ownership of the property by someone
12 other than the defendant, the named lienholder or owner shall be a necessary
13 party to the action commenced under this section unless the party has by affidavit
14 released the lien. The lienholder or owner shall have no obligation to intervene
15 to protect his rights, but the court shall determine the validity of the lien.]
16

2 [513.617. 1. In the event criminal charges arising from the same activity
3 giving rise to the CAFA proceeding are filed against any individual claiming an
4 interest in the property subject to the CAFA proceeding, such CAFA proceeding
5 shall be stayed by the court until the disposition of the criminal charges. In such
6 cases, no property shall be forfeited unless the person charged is found guilty of
7 or pleads guilty to a felony offense substantially related to the forfeiture. The
8 property of persons arrested, detained or apprehended and not subsequently
9 charged is not subject to forfeiture for that arrest, detention or apprehension. The
10 rights of an innocent owner of property are superior to any right or claim of the
11 state or county, and such rights shall be enforced pursuant to the provisions of
12 sections 513.610 to 513.620.

13 2. In any case where the court determines that seized property is subject
14 to forfeiture pursuant to the provisions of section 513.607 but there has not been
15 a felony conviction, finding of guilt or plea of guilt to support such forfeiture, the
16 court shall stay the civil forfeiture proceedings and order the release of the
17 property subject to the following requirements:

18 (1) The person to whom the property is released shall file a bond in an
19 amount which the court determines to be adequate to secure the property and
20 which does not exceed the value of the property;

21 (2) The court may impose other conditions that it deems reasonable and
22 necessary to prevent the property from being made unavailable for disposition by
23 the court;

24 (3) The bond and other conditions shall terminate at such time as the
25 released property is no longer subject to forfeiture or upon return of the property
26 to the confiscating authority.

27 3. No action filed pursuant to sections 513.600 to 513.660 shall be
28 compromised or otherwise settled without the express approval of the terms of
29 the settlement by the court in which such action is pending. Nothing in this
30 section shall prohibit or prevent the parties from contemporaneously resolving
31 criminal charges and a CAFA proceeding arising from the same activity.
32 However, seized property shall not be used in bargaining to defer prosecution of
33 criminal charges, obtain a guilty plea or affect sentencing recommendations, and
34 the court in which the CAFA proceeding is pending shall not approve any
settlement without first making such a finding. No state or local government

35 agency, nor any person, may accept any monetary payment or other thing of value
36 in exchange for the release of property seized for forfeiture or for the settlement
37 of any criminal charges.

38 4. No state or local government agency may hold property seized for
39 forfeiture unless a petition for forfeiture has been filed within the time limit
40 provided by section 513.607, unless a time extension is granted by order of the
41 circuit court. The court may extend the time for filing a petition for up to ten
42 days for each order, but may not extend the time for filing for more than thirty
43 days.]
44

[513.620. Subject to the requirement of protecting the interest of all
2 innocent parties, the court may after judgment of forfeiture make any of the
3 following orders for disposition of the property:

- 4 (1) Destruction of contraband, the possession of which is illegal;
5 (2) Retention of the property by any innocent party having an interest
6 therein, upon payment or approval of a plan for payment into court of the value
7 of any forfeited interest in the property; such a plan may include, in the case of
8 an innocent party who holds a lien on or security interest in the property, the sale
9 of the property by said innocent party under such terms and conditions as may be
10 prescribed by the court and the payment into court of any proceeds from such sale
11 over and above the amount necessary to satisfy the lien or security interest;
12 (3) Judicial sale of the property;
13 (4) Transfer of the property to any innocent party having an interest
14 therein equal to or greater than the value of the property; or
15 (5) Any other disposition of the property as may be provided by the laws
16 of this state which is in the interest of justice and adequately protects innocent
17 parties.]
18

[513.623. The clear proceeds of any sale or disposition after satisfaction
2 of the interest of any innocent party and after payment of the reasonable costs of
3 the CAFA proceeding, including reasonable storage costs as assessed by the
4 court, if any, shall be distributed pursuant to section 7 of article IX of the
5 Constitution of the state of Missouri.]
6

[513.625. 1. Upon the entry of a final judgment of forfeiture in favor of
2 the state, the title of the state to the forfeited property shall:

- 3 (1) In the case of real property or beneficial interest, relate back to the
4 date of filing of the CAFA lien notice in the official records of the county where
5 the real property or beneficial trust is located and, if no CAFA lien notice is filed,
6 then to the date of the filing of any notice of lis pendens under section 527.260,
7 RSMo, in the official records of the county where the real property or beneficial
8 interest is located and, if no CAFA lien notice or notice of lis pendens is so filed,
9 then to the date of recording of the final judgment of forfeiture in the official
10 records of the county where the real property or beneficial interest is located; and

11 (2) In the case of personal property, relate back to the date the personal
12 property was seized by the investigating agency.

13 2. If property subject to forfeiture is conveyed, alienated, disposed of, or
14 otherwise rendered unavailable for forfeiture after the filing of a CAFA lien
15 notice or after the filing of a forfeiture petition, whichever is earlier, the
16 investigative agency may, on behalf of the state, institute an action in the
17 appropriate circuit court against the person named in the CAFA lien notice or the
18 defendant in the civil proceeding and the court shall enter final judgment against
19 the person named in the CAFA lien notice or the defendant in the civil
20 proceeding in an amount equal to the fair market value of the property, together
21 with investigative costs and attorney's fees incurred by the investigative agency
22 in the action. If a civil proceeding is pending, such action shall be filed only in
23 the court where such civil proceeding is pending.]
24

2 [513.630. Notwithstanding any other provision of law, a proceeding
3 under this act may be commenced up until five years after the conduct terminates
4 or the cause of action accrues. If a criminal prosecution or civil action is brought
5 by the state relating to conduct which would constitute criminal activity as
6 defined in section 513.605, then the running of the period of limitations shall be
7 suspended during the pendency of such prosecution or action by the state and for
8 five years thereafter.]

2 [513.635. The application of one civil remedy under any provision of this
3 act shall not preclude the application of any other remedy. Remedies under this
4 act are supplemental and not mutually exclusive.]

2 [513.637. 1. Notwithstanding any other provision of law, a valid
3 judgment rendered by a court of a jurisdiction having a law substantially similar
4 to sections 513.600 to 513.645 will be recognized and enforced by the courts of
5 this state to the extent that a judgment rendered by a court of this state pursuant
6 to sections 513.600 to 513.645 would be enforced in such other jurisdiction.

7 2. The attorney general is hereby authorized to enter into reciprocal
8 agreements with the attorney general or chief prosecuting attorney of any
9 jurisdiction having a law substantially similar to sections 513.600 to 513.645 so
10 as to further the purposes of sections 513.600 to 513.645.]

2 [513.640. 1. Upon the institution of a civil forfeiture proceeding or, if
3 no civil suit has been instituted, upon the return of an indictment or filing of an
4 information of a crime which may constitute criminal activity as defined in
5 section 513.605, the investigative agency then or at any time during the pendency
6 of the proceeding may file in the official records of any one or more counties a
7 CAFA lien notice. No filing fee or other charge shall be required as a condition
8 for filing the CAFA lien notice. The recorder of deeds shall, upon the
presentation of a CAFA lien notice, immediately record it in the official records.

9 2. The CAFA lien notice shall be signed by the attorney general or his
10 designee or by a prosecuting or circuit attorney or his designee. The notice shall
11 be in such form as the attorney general prescribes and shall set forth the following
12 information:

13 (1) The name of the person against whom the civil proceeding has been
14 brought. The investigative agency may also name in the CAFA lien notice any
15 other aliases, names, or fictitious names under which the person may be known.
16 The investigative agency may also name in the CAFA lien notice any
17 corporation, partnership, or other entity that is either controlled by or entirely
18 owned by the person;

19 (2) If known to the investigative agency, the present residence and
20 business addresses of the person named in the CAFA lien notice and of the other
21 names set forth in the CAFA lien notice;

22 (3) A reference to the civil proceeding stating that a proceeding under
23 this act has been brought against the person named in the CAFA lien notice, the
24 name of the county or counties where the proceeding has been brought, and, if
25 known to the investigative agency at the time of filing the CAFA lien notice, the
26 case number of the proceeding;

27 (4) A statement that the notice is being filed pursuant to this act; and
28 (5) The name and address of the investigative agency filing the CAFA
29 lien notice and the name of the individual signing the CAFA lien notice.

30 3. A CAFA lien notice shall apply only to one person and, to the extent
31 applicable, any aliases, fictitious names, or other names, including names of
32 corporations, partnerships, or other entities. A separate CAFA lien notice shall
33 be filed for any other person against whom the investigative agency desires to file
34 a CAFA lien notice under this section.

35 4. The investigative agency shall, as soon as practicable after the filing
36 of each CAFA lien notice, furnish to the person named in the notice either a copy
37 of the recorded notice or a copy of the notice with a notation thereon of the
38 county or counties in which the notice has been recorded. The failure of the
39 investigative agency to so furnish a copy of the notice under this subsection shall
40 not invalidate or otherwise affect the notice.

41 5. The filing of a CAFA lien notice creates, from the time of its filing, a
42 lien in favor of the state on the following property of the person named in the
43 notice and against any other names set forth in the notice:

44 (1) Any real property situated in the county where the notice is filed then
45 or thereafter owned by the person; and

46 (2) Any beneficial interest situated in the county where the notice is filed
47 then or thereafter owned by the person.

48 6. The lien shall commence and attach as of the time of filing of the
49 CAFA lien notice and shall continue thereafter until expiration, termination, or
50 release. The lien created in favor of the state shall be superior and prior to the
51 interest of any other person in the real property or beneficial interest if the interest
52 is acquired subsequent to the filing of the notice.

53 7. In conjunction with any civil proceeding:

54 (1) The investigative agency may file without prior court order in any
55 county a lis pendens and, in such case, any person acquiring an interest in the
56 subject real property or beneficial interest subsequent to the filing of lis pendens
57 shall take the interest subject to the civil proceeding and any subsequent
58 judgment of forfeiture; and

59 (2) If a CAFA lien notice has been filed, the investigative agency may
60 name as defendants, in addition to the person named in the notice, any persons
61 acquiring an interest in the real property or beneficial interest subsequent to the
62 filing of the notice. If a judgment of forfeiture is entered in the proceeding in
63 favor of the state, the interest of any person in the property that was acquired
64 subsequent to the filing of the notice shall be subject to the notice and judgment
65 of forfeiture.

66 8. (1) A trustee who acquires actual knowledge that a CAFA lien notice
67 or a civil proceeding under sections 513.600 to 513.645 has been filed against
68 any person for whom he holds legal or record title to real property shall
69 immediately furnish to the investigative agency the following:

70 (a) The name and address of the beneficiary against whose interest the
71 CAFA lien notice or the CAFA proceeding has been filed, as known to the
72 trustee;

73 (b) The name and address, as known to the trustee, of all other persons
74 for whose benefit the trustee holds title to the real property; and

75 (c) A copy of the trust agreement or other instrument pursuant to which
76 the trustee holds legal or record title to the real property;

77 (2) Any trustee who fails to comply with the provisions of this subsection
78 is guilty of a class C misdemeanor.

79 9. Any trustee who conveys title to real property for which a CAFA lien
80 notice has been filed at the time of the conveyance in the county where the real
81 property is situated naming a person who, to the actual knowledge of the trustee,
82 holds a beneficial interest in the trust shall be liable to the state for the greater of:

83 (1) The amount of proceeds received directly by the person named in the
84 CAFA lien notice as a result of the conveyance;

85 (2) The amount of proceeds received by the trustee as a result of the
86 conveyance and distributed to the person named in the CAFA lien notice; or

87 (3) The fair market value of the interest of the person named in the
88 CAFA lien notice in the real property so conveyed; however, if the trustee
89 conveys the real property and holds the proceeds that would otherwise be paid or
90 distributed to the beneficiary or at the direction of the beneficiary or his designee,
91 the trustee's liability shall not exceed the amount of the proceeds so held for so
92 long as the proceeds are held by the trustee.

93 10. The filing of a CAFA lien notice shall not constitute a lien on the
94 record title to real property as owned by the trustee except to the extent the
95 trustee is named in the CAFA lien notice. The investigative agency may bring
96 a civil proceeding in any circuit court against the trustee to recover from the

trustee the amounts set forth in subsection 9 of this section, and the state shall also be entitled to recover investigative costs and attorney's fees incurred by the investigative agency.

11. The filing of a CAFA lien notice shall not affect the use to which real property or a beneficial interest owned by the person named in the CAFA lien notice may be put or the right of the person to receive any avails, rents, or other proceeds resulting from the use and ownership, but not the sale, of the property until a judgment of forfeiture is entered.

12. (1) The provisions of this section shall not apply to any conveyance by a trustee pursuant to a court order unless such court order is entered in an action between the trustee and the beneficiary;

(2) Unless the trustee has actual knowledge that a person owning a beneficial interest in the trust is named in a CAFA lien notice or is otherwise a defendant in a civil proceeding, the provisions of this section shall not apply to:

(a) Any conveyance by a trustee required under the terms of any trust agreement, which trust agreement is a matter of public record prior to the filing of any CAFA lien notice; or

(b) Any conveyance by a trustee to all of the persons who own a beneficial interest in the trust.

13. All forfeitures or dispositions under this section shall be made with due provision for the rights of innocent persons.]

[513.645. 1. The term of a CAFA lien notice shall be for a period of six months from the date of filing of the petition. Said lien notice may be renewed by the investigative agency one time prior to judgment. After judgment in favor of the investigative agency the CAFA lien notice shall be for a period of six years. The investigative agency shall be entitled to only one renewal of the CAFA lien notice after judgment.

2. The investigative agency filing the CAFA lien notice may release in whole or in part any CAFA lien notice or may release any specific real property or beneficial interest from the CAFA lien notice upon such terms and conditions as it may determine. Any release of a CAFA lien notice executed by the investigative agency may be filed in the official records of any county. No charge or fee shall be imposed for the filing of any release of a CAFA lien notice.

3. If no civil proceeding has been instituted by the investigative agency seeking a forfeiture of any property owned by the person named in the CAFA lien notice, the acquittal in the criminal proceeding of the person named in the CAFA lien notice or the dismissal of the criminal proceeding shall terminate the CAFA lien notice; and, in such case, the filing of the CAFA lien notice shall have no effect.

4. If no civil proceeding is then pending against the person named in a CAFA lien notice, any person named in a CAFA lien notice may institute an action against the investigative agency filing the notice in the county where the

notice has been filed seeking a release or extinguishment of the notice; and, in such case:

(1) The court shall, upon the motion of such person, immediately enter an order setting a date for hearing, which shall be not less than five nor more than ten days after the suit has been filed. The order, along with a copy of the complaint, shall be served on the investigative agency within three days after the institution of the suit. At the hearing, the court shall take evidence on the issue of whether any real property or beneficial interest owned by such person is covered by the CAFA lien notice or otherwise subject to forfeiture under the Missouri CAFA act. If such person shows by the preponderance of the evidence that the CAFA lien notice is not applicable to him or that any real property or beneficial interest owned by him is not subject to forfeiture under this act, the court shall enter a judgment extinguishing the CAFA lien notice or releasing the real property or beneficial interest from the CAFA lien notice;

(2) The court shall immediately enter its order releasing from the CAFA lien notice any specific real property or beneficial interest if a sale of the real property or beneficial interest is pending and the filing of the notice prevents the sale of the property or interest; provided, however, that the proceeds resulting from the sale of the real property or beneficial interest shall be deposited into the registry of the court, subject to the further order of the court; and

(3) At the hearing set forth in subdivision (1) of this subsection, the court may release from the CAFA lien notice any real property or beneficial interest upon the posting by such person of such security as is equal to the value of the real property or beneficial interest owned by such person.

5. In the event a civil proceeding is pending against a person named in a CAFA lien notice, the court, upon motion by said person, may grant the relief set forth herein.

6. Upon acquittal or dismissal of a criminal action against a person also named in a CAFA action, the civil action shall be dismissed.]

[513.647. 1. No state or local law enforcement agency may transfer any property seized by the state or local agency to any federal agency for forfeiture under federal law until the prosecuting attorney and the circuit judge of the county in which the property was seized first review the seizure and approve the transfer to a federal agency, regardless of the identity of the seizing agency. The prosecuting attorney and the circuit judge shall not approve any transfer unless it reasonably appears the activity giving rise to the investigation or seizure involves more than one state or unless it is reasonably likely to result in federal criminal charges being filed, based upon a written statement of intent to prosecute from the United States attorney with jurisdiction. No transfer shall be made to a federal agency unless the violation would be a felony under Missouri law or federal law.

2. Prior to transfer, in an ex parte proceeding, the prosecuting attorney shall file with the court a statement setting forth the facts and circumstances of

15 the event or occurrence which led to the seizure of the property and the parties
16 involved, if known. The court shall certify the filing, and notify by mailing to the
17 last known address of the property owner that his property is subject to being
18 transferred to the federal government and further notify the property owner of his
19 right to file a petition stating legitimate grounds for challenging the transfer. If
20 within ninety-six hours after the filing of the statement by the prosecuting
21 attorney, the property owner by petition shows by a preponderance of the
22 evidence that the property should not be transferred to the federal government for
23 forfeiture, the court shall delay such transfer until a hearing may be held. If the
24 court orders a delay in transfer, no later than ten days after the filing of a petition
25 under this section and sections 513.649 and 513.651, a hearing shall be held
26 unless the court deems, for good cause shown, that a continuance should be
27 granted. At the hearing, if the prosecutor has proved by a preponderance of the
28 evidence that the investigation or seizure involved more than one state or that the
29 nature of the investigation or seizure would be better pursued under the federal
30 forfeiture statutes, the court shall order that the transfer shall be made.]
31

2 [513.649. Any property seized by state or local peace or reserve officers
3 who are detached to, deputized or commissioned by or working in conjunction
4 with the federal agency shall remain subject to the provisions of this section and
5 sections 513.647 and 513.651.]
6

2 [513.651. The moneys acquired by law enforcement agencies pursuant
3 to this section and sections 513.647 and 513.649 shall be used only by the law
4 enforcement agency for the investigation or prosecution of criminal activity, the
5 execution of court orders arising from such activity, the enforcement of
6 drug-related crimes, training, drug education, and the safety of both the citizens
7 and law enforcement officers.]
8

2 [513.653. 1. Law enforcement agencies involved in using the federal
3 forfeiture system under federal law shall be required at the end of their respective
4 fiscal year to acquire an independent audit of the federal seizures and the
5 proceeds received therefrom and provide this audit to their respective governing
6 body and to the department of public safety. A copy of such audit shall be
7 provided to the state auditor's office. This audit shall be paid for out of the
8 proceeds of such federal forfeitures. The department of public safety shall not
9 issue funds to any law enforcement agency that fails to comply with the
10 provisions of this section.

11 2. Intentional or knowing failure to comply with the audit requirement
12 contained in this section shall be a class A misdemeanor, punishable by a fine of
up to one thousand dollars.]

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